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SEP 04 2007

OFFICE OF PETITIONS

In re Application Of: :
Yoon Seok Yang :
Application No. 10/050,274 : DECISION ON PETITION UNDER
Filed: January 16, 2002 : 37 C.F.R. § 1.47(B)
Attorney Docket No. 2080-3-66 :
Title: APPARATUS FOR :
ENCRYPTING/DECRYPTING REAL- :
TIME INPUT STREAM :
:

This is in response to the petition under 37 C.F.R. § 1.47(b)¹, filed on July 3, 2007.

¹ A grantable petition under 37 C.F.R. §1.47(b) requires:

- (1) The petition fee;
- (2) a surcharge if the petition was not filed at the time of filing of the application;
- (3) a statement of the last known address of each of the non-signing inventors;
- (4) proof that either:
 - a) a copy of the application was sent or given to each of the non-signing inventors for review and proof that each of the non-signing inventors refused to sign, or;
 - b) proof that diligent efforts have been made to locate the non-signing inventor;
- (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
- (6) proof of irreparable damage, and;
- (7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 C.F.R. §1.63.

The above-identified application was filed on January 16, 2002, with a declaration that had been executed by the sole inventor. With the present petition, Petitioner has indicated that the citizenship of the inventor was not listed on this declaration.

With the present petition, Petitioner has submitted a statement of facts, a copy of an envelope, a declaration that has been executed by the assignee, and the last-known address of the non-signing inventor. The surcharge associated with the late submission of a declaration and the petition fee have been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner has met requirements (1) - (3) and (5) - (7) of 37 C.F.R. § 1.47(b).

Regarding the **fourth requirement** of Rule § 1.47(b), Petitioner has asserted that the inventor is "unavailable." Petitioner has further asserted that "the Applicant made a diligent effort to reach the latter (sic) inventor..." however such has not been shown by Petitioner to be the case.

Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. As *petitioner has set forth that the non-signing joint inventor cannot be found or reached, petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* There is no indication that a search was performed for Mr. Yang. The Applicant merely mailed a letter to the inventor, and the letter was returned by the Post Office. There does not appear to be any indication that the Rule 47 applicant attempted to verify the address of the non-signing inventor or to determine his forwarding address, and to send the complete application papers to that address for consideration by the inventor.² Petitioner must provide a showing detailing the attempts that were made to obtain a forwarding address or to locate the non-signing inventor by means such as through E-mail, telephone, or the Internet. If it is then averred that such attempts failed, then applicant will have provided the necessary proof required under 37 C.F.R. § 1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

² See MPEP 409.03(d).

Pursuant to the discussion above, the present showing is incomplete. It follows that this petition under 37 C.F.R. § 1.47(b) must be **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.47(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail³, hand-delivery⁴, or facsimile⁵. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web⁶.

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225⁷. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

5 (571) 273-8300- please note this is a central facsimile number.

6 <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>

7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).